

UNITED STATES DISTRICT COURT

United States Courts Southern
District of Texas
FILEDfor the
Southern District of Texas

09/12/22

United States of America

v.

Christian MATUTE

Nathan Ochsner, Clerk of Court

Case No.

C-22-MJ-1040

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 11, 2022 in the county of Brooks in the
Southern District of Texas, the defendant(s) violated:*Code Section*

8 United States code 1324

Offense Description

Did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation in violation of Title 8 United States Code, Section 1324.

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

DANIEL J HERNANDEZ

Digitally signed by DANIEL J HERNANDEZ
Date: 2022.09.12 11:20:11 -05'00'*Complainant's signature*

Daniel J. Hernandez, HSI, Special Agent

*Printed name and title*Submitted by reliable electronic means, sworn to,
signature attested telephonically per
Fed.R.Crim.P. 4.1, and probable cause found:Date: September 12, 2022City and state: Corpus Christi, Texas*Judge's signature*

Julie K. Hampton, US Magistrate Judge

Printed name and title

AFFIDAVIT

I, Daniel J. Hernandez after being duly sworn, state as follows:

On September 11, 2022, Border Patrol Agent (BPA) William Mayberry, was working assigned duties at the Falfurrias Border Patrol Checkpoint located 13 miles south of Falfurrias, Texas. At approximately 04:20 a.m., a 2012 Kenworth approached the primary commercial lane for inspection. BPA Mayberry asked the driver, later identified as, Christian MATUTE where he was going, to which he responded "Houston". BPA Mayberry asked MATUTE what he was transporting to which he responded, "Fruits and Vegetables, Produce". This was unusual as fruits and vegetables are not commonly mixed in loads traveling through the checkpoint. As BPA Mayberry spoke to MATUTE, BPA Mayberry noticed MATUTE was having difficulty sitting still. BPA Mayberry then asked MATUTE for his bill of lading; MATUTE looked briefly through the cab of the tractor then stated that he did not have one. It is extremely unusual for a semi-truck driver not to have a bill of lading for the load.

BPA Mayberry then checked the temperature of the refrigeration unit and noticed it was set at 65 degrees however the inside temperature of the trailer displayed 70 degrees on the refrigeration unit. This temperature is common to previous smuggling attempts using refrigerated trailers through the checkpoint. BPA Mayberry checked the rear of the trailer and noticed it was secured by a padlock that appeared to be a brand new and a stamped metal seal. BPA Mayberry noted this method of securing a refrigerated trailer had been used in previous smuggling attempts. BPA Mayberry requested the assistance of a service canine. BPA Canine handler R. Hinojosa utilizing his service Canine Duke (160130), conducted a non-intrusive free air sniff of the tractor-trailer and stated Canine Duke positively alerted to the trailer. BPA Mayberry advised MATUTE to proceed to secondary inspection area due to the K-9 alert.

At secondary inspection area, BPA J Escate advised MATUTE to exit the semi-truck. In the secondary search area BPA Canine Handler R. Hinojosa's service canine Duke again alerted to the rear of the trailer. The trailer was pad locked and MATUTE stated he did not have the key. BPA J. Coria cut the lock using bolt-cutters and made entry into the trailer.

Upon entry, BPA J. Coria discovered multiple subjects in the front of the trailer hidden behind pallets of old rotting produce.

The individuals inside the trailer had no available means to escape without assistance from someone outside the trailer and were found without readily available food or water. The vehicle was then moved to the secure Sally Port to facilitate removal of the subjects safely in a secured area. Secondary Border Patrol Agents started to perform immigration inspections of all the subjects in the trailer area and determined that all subjects were illegally present in the United States and that they had illegally entered the United States. MATUTE and the 115 illegal aliens were placed under arrest and escorted inside the checkpoint for further processing. Included in the 115 individuals hidden inside of the trailer were five (5) juveniles of which four (4) were verified by BPA's J. Ochoa and J. Garza to be unaccompanied juveniles.

Homeland Security Investigation (HSI) Special Agent's Daniel Hernandez and Eric Martinez from the Corpus Christi office responded and interviewed MATUTE. MATUTE was read his Miranda Rights by SA Daniel Hernandez. MATUTE stated he understood his rights and signed the Miranda form waiving his rights and agreed to speak to agents.

MATUTE began the interview being evasive and extremely vague in his answers. Agents told MATUTE 115 undocumented non-citizens were hidden inside the trailer and illegally present in the United States. MATUTE then began to be more specific in his answers and stated he was asked on Saturday September 10, 2022, by his friend to travel from Houston, Texas to McAllen, TX to bring back a semi-truck and trailer. MATUTE stated he was told the trailer would be carrying fruits and vegetables. MATUTE stated money was transferred on September 10, 2022, into his personal bank account using Zelle, a money transfer application, by a separate unknown individual. MATUTE used the money to purchase a plane ticket to travel from Houston to McAllen. MATUTE left George Bush International Airport at approximately 9:30pm and arrived in McAllen sometime around 11:00pm.

MATUTE stated an unknown male and female driving a dark-colored vehicle picked him up from the McAllen Airport and took him to a Walmart in the Rio Grande Valley where the truck was parked. MATUTE stated the key to the semi-truck was in the door above the fuel tank. MATUTE stated the semi-truck was off but the refrigeration unit to the trailer was on.

MATUTE stated he conducted a pre-trip inspection of the semi-truck and trailer and noted the trailer was secured with a padlock. MATUTE stated he found it to be weird but disregarded it since he did not own the trailer or product. MATUTE stated he found the diesel exhaust system needed service. MATUTE stated the two individuals driving the dark-colored truck told him to follow them to a mechanic shop in the area to have it looked at. MATUTE stated it was sometime between midnight and 1:00 am when they drove to the mechanic shop. MATUTE stated he dropped the semi-truck off at the mechanic shop and left with the two individuals. MATUTE stated they drove around the Edinburg, TX area until the mechanic called the male driver of the dark-colored vehicle to return to the shop.

MATUTE stated he picked up the semi-truck and drove to the LOVE's truck stop and purchased oil and diesel exhaust fluid for the semi-truck. MATUTE stated the male driver of the dark-colored vehicle gave him forty dollars in US currency to cover the purchase of the oil and diesel exhaust fluid. MATUTE stated that after approximately 30 minutes of traveling on US Highway 281 he began to have issues again with the diesel exhaust system and could only travel between 40-50 mph. MATUTE stated he arrived at the Falfurrias Checkpoint and was sent to the inspection area where he was later arrested.

MATUTE stated his destination was Houston, TX and was going to be paid approximately \$700 dollars for this trip. During the interview, MATUTE signed a consent form for his cellular phone and iPad. SA Hernandez did a preliminary search of MATUTE's text messages and noted a text message to a female from MATUTE on September 11, 2022, at 12:44 stated "Remember that trip with good pay" and a second text message to the same female at 12:47 "Im doing another one." Further, MATUTE stated, and record checks revealed he does not have a commercial driver's license.

Material Witness Statements

CHACON-Rivera, Mario Antonio:

BPA R. Vasquez and BPA J. Garza interviewed Mario Antonio Chacon-Rivera and was read his Miranda rights per for I-214 in his preferred language in Spanish on September 11, 2022, at 7:00 a.m. Mario Antonio Chacon-Rivera signed and stated that he understood his Miranda rights. The following is a brief synopsis.

CHACON-Rivera stated he crossed on September 10, 2022, around 8:00 a.m. Once he crossed the guide took his cell phone and his money, which totaled \$2100.00 USO. CHACON-RIVERA identified the guide as "Negro." He stated that there was over 100 people in a house with no food. He crossed a bridge and was not sure the area but heard them say "McAllen." Once he crossed the bridge a red in color truck picked up five people. The driver of the truck looked like a white man and spoke only English. After they were picked up in the truck, they traveled for approximately an hour and twenty minutes and were dropped off at a house. After that they never saw the driver of the red truck again. CHACON-Rivera state he was at the house until dark and there was a heavy white male, short in stature and was called "Guero." There were two tractor trailers at the house. The group was forced into the trailer, there was so many subjects that they had to use the second trailer. The other trailer had 30-35 subjects in it. CHACON- RIVERA stated that it was very hot in the trailer, no way out, no restrooms. He was very scared along with the rest of the people in the trailer. When they were being pushed into the trailer, 2 of the subjects jumped out and that is when the back of the trailer doors was closed and was completely dark inside. CHACON-Rivera stated the truck drove for approximately hour and twenty minutes until it stopped.

AVENDANO-Rodriguez, Douglas:

AVENDANO-Rodriguez, Douglas was read his Miranda Rights and Warnings, in his preferred language of, Spanish, as per Service Form CBP I-214 by BPA A. Martinez and witnessed by BPA N. Pascua-Garza. AVENDANO-Rodriguez signed stating that he was read and understood his rights and was willing to give a statement without a lawyer present. AVENDANO-Rodriguez stated he and 20 other people were picked up by a 4-door truck. He stated they were taken to a big house that had 50-70 people already there. After they arrived there was another group of 20 people that showed up to the house. The house had no walls, a TV in the middle of the house, and a restroom. He stated once he arrived, he was there for approximately 3 days. He stated they entered the trailer and once everyone was inside, they began to move. The trailer did not stop, and the doors stayed closed. He stated they left the house at approximately 2 in the morning and were in the trailer for approximately an hour and 40 minutes. The doors did not open until the Border Patrol Agents opened the doors at the checkpoint. He stated there was no food nor water in the trailer

LOPEZ-Yact, Domingo


BPA R. Vasquez and BPA J. Garza interviewed Domingo LOPEZ-YACT and was read his Miranda rights per for I-214 in his preferred language in Spanish on September 11, 2022, at 8:11 a.m. Domingo LOPEZ-YACT signed and stated that he understood his Miranda rights.

He stated that he is from Campeche, Mexico and crossed five days ago through Reynosa, Mexico. He got picked up by a tall skinny man who was Spanish speaking, drove a black van took five subjects from where he crossed on the McAllen, Texas side. The man took the five of them to a house and once they got to the house a man met them and took all their cell phones. The man at the house was tall, dark with a beard and Spanish speaking. There was approximately already one hundred people in the house when he got there, and he was the last to arrive at the house. At around 2:00 a.m. the group in the house was put into the trailer. He did not see the driver. The man who told him to get in the trailer was short, skinny, and had a tattoo on the right forearm. He was treated bad and was forced into the trailer. Originally, he was told

that he would be going through the brush but then was not given an option and had to get into the trailer. He was told that it was a three-hour drive but felt like it was about a one-hour drive. He was one of the subjects that did not want to get in the trailer. LOPEZ-Yact stated he was scared because he had no way of getting out and the trailer was dark and cold. He stated his family was paying \$8000.00 US dollars for him to be transported to Minnesota


CHACON-Rivera, Mario Antonio, AVENDANO-Rodriguez, and Douglas, LOPEZ-Yact, Domingo, were detained as material witnesses.

SA Hernandez reviewed all paperwork received from Border Patrol reference this case, and none of the other undocumented non-citizens interviewed by Border Patrol Agents provided any exculpatory statements or evidence. They were processed accordingly to be sent back to their native countries.



Daniel J. Hernandez
Homeland Security Investigations
Special Agent

Submitted by electronic means, sworn to, and signature
attested telephonically per Fed. R. Crim. P. 4.1, and
probable cause found on this day September 12, 2022:



Julie K. Hampton
United States Magistrate Judge